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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.              | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------|
| 10/777,465   | 02/11/2004  | Eric Linn            | 022038-000300US                  | 2236             |
| 20350 7590 04/20/2007<br>TOWNSEND AND TOWNSEND AND CREW, LLP<br>TWO EMBARCADERO CENTER<br>EIGHTH FLOOR<br>SAN FRANCISCO, CA 94111-3834 |             |                      | EXAMINER<br>PAYER, HWEI SIU CHOU |                  |
|  |             |                      | ART UNIT                         | PAPER NUMBER     |
|  |             |                      | 3724                             |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE   |             | MAIL DATE            | DELIVERY MODE                    |                  |
| 3 MONTHS   |             | 04/20/2007           | PAPER                            |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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**Office Action Summary**

Application No.

10/777,465

Applicant(s)

LINN ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,6-8,11,12,14-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,6-8,11,12,14-18 and 22 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

The amendment filed on 2-5-2007 has been entered.

### Claims Rejection - 35 U.S.C. 102(b)/(e)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 6-8, 11, 17, 18 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pardue (U.S. Patent No. 5,822,866).

Pardue discloses (see Figs.1-10) a folding knife (20) comprising a handle/housing (22), a blade (24), a locking mechanism (80), a protrusion (100), a recess (110/112), a male portion (66), a blade female portion (72), a tab (98), a pivot pin (84), a tang (34), and a blade sharpened edge (78) as claimed.

3. Claims 11, 12 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Glessner (U.S. Patent Application Publication No. 2004/0045170).

Glesser discloses a folding knife comprising a housing (4), a blade (6), a locking mechanism (24,32), a protrusion (36), a tab (i.e. the distal portion of the locking lever 32 located near the handle notch 38), a male portion (26), a blade female portion (40), a pivot pin (30), a blade tang (16), and a blade edge (14) as claimed.

#### **Indication of Allowable Subject Matter**

1. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 19-21 and 24 are allowed.

#### **Remarks**

Applicants' arguments filed 2-5-2007 have been fully considered but they are not persuasive.

Applicants argue, at page 10 of the amendment, the present invention requires a pivotally held locking mechanism connected to the handle to lock the blade in a closed position. Applicants further argue although the locking lever (80) of the Pardue invention is pivotally held, it does not lock the blade in the close position, and only the latch release button (54) actually locks and unlocks the blade, the locking lever (80) pivotally engages and disengages the latch release button (54) not the blade. In response, the claimed invention merely requires a locking mechanism connected to the

handle to lock the blade in a closed position. Clearly, Pardue's locking mechanism (80) is indeed connected to the handle (22, see Figs.4 and 6) as claimed. Further, the locking mechanism (80) prevents the blades (24) from being released by the latch mechanism either from the fully extended position shown in Figs.1 and 2, or from the closed position shown in Fig.3. The locking mechanism (80) is acting in a way indirectly to lock the blade in a closed position. The locking mechanism (80) is therefore broadly interpreted as "for locking the blade in a closed position" as claimed.

#### Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

H Payer  
April 18, 2007

*H Payer*

Hwei-Siu Payer  
Primary Examiner